SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

NO. 561

JOHNNY C. WILSON, et al., etc.,
Appellants,

v.

ASA D. KELLEY, JR., Director of the State Board of Corrections of Georgia, et al., etc.,
Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MOTION TO AFFIRM, WITH SUPPORTING BRIEF ON BEHALF OF APPELLEES

132 Judicial Bldg.
40 Capitol Square
Atlanta, Ga. 30334

ARTHUR K. BOLTON
Attorney General

HAROLD N. HILL, JR.
Executive Asst. Attorney General

MARION O. GORDON
Assistant Attorney General

MATHEW ROBINS
Assistant Attorney General

W. WHEELER BRYAN
Assistant Attorney General

DON L. HARTMAN
Deputy Asst. Attorney General

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

NO._____

JOHNNY C. WILSON; HOSEA L. WILLIAMS; SAM W. WILLIAMS; FRED C. BENNETT; PHIL WHITUS; LEON DAVIS; SLATER KING; SUZANNE R. and HENRY L. BASS; JODY PALMOUR; RALPH LORENZO MANNINGS, a/k/a WILLIAM H. DUKES; WOODROW STARGELL, individually and as father and next friend of WINSTON STARGELL; a minor, JESSE HILL, JR.; GENE GUERRERO, JR.; and LILLIE BELLE HOLT, individually and as mother and next friend of HALLIE MAE HOLT, a minor; for themselves jointly and severally, and for all others similarly situated,

Appellants,

v.

ASA D. KELLEY, JR., Director of the State Board of Corrections of Georgia; JOHN B. STANLEY, STETSON BENNETT, JR., RICHARD W. WATKINS, JR., JACK T. RUTLEDGE, as members of the State Board of Corrections of Georgia; WILLIAM H. BURSON, as Director of the State Department of Family and Children Services of Georgia, and as Chairman of the State Board for Children and Youth; MRS. H. SOL CLARK, G. OTHELL HAND, GUY K. HUTCHERSON, MRS. MAMIE K. TAYLOR, IRVING KALER, BERT STRUBY, MRS. LESTER HARBIN, JACK WILLIAMS, JR., LEWIS STOVER, JR., MRS. HENRY H. PARSONS, C. L. JONES, DAVID HOLMES, HARVEY PASCHAL,

MRS. LAMAR RUSSELL, as members of the State Board for Children and Youth; WELLBORN R. ELLIS, as Director of the State Board for Children and Youth; EDWIN L. SWAIN, as Director of the State Merit System of Personnel Administration; THOMAS H. MILNER, JR., Chairman of the State Personnel Board; L. E. BOWEN, SR., as Vice-Chairman of the State Personnel Board; DR. HUGH A. GOODWIN, as member of the State Personnel Board; T. RALPH GRIMES and LYNWOOD WILLIFORD, as Sheriffs of Fulton County, Georgia, and Mitchell County, Georgia, respectively, and all other sheriffs of Georgia, jointly and severally, who are similarly situated, GEORGIA SHERIFFS' ASSOCIATION, DANIEL E. STRINGER, its President, T. RALPH GRIMES, S. CARL GRIFFIN, DWAYNE GILBERT, W. R. BUSSELL, D. LAMAR STEWART, ALBERT HUDSON, LAMAR MARTIN, HOWARD NORRIS, KERMIT SANDERS, RUSSELL TANNER, ADGER MOORE as Members of the Board of Directors of the Georgia Sheriffs' Association; LEWIS DAVIS, as Warden of the City Jail of Albany, Georgia; FRED SINK, as Superintendent of Streets and Public Works of Albany, Georgia, and all other wardens and jailers of Georgia, jointly and severally, who are similarly situated,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MOTION TO AFFIRM

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Come now the Appellees, pursuant to Rule 16 of the revised rules of the Supreme Court, and move the Court to affirm the judgment from which the appeal in the above-styled case was taken on the ground that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

This 22 day of October, 1968.

132 Judicial Bldg.
40 Capitol Square
Atlanta, Georgia

ARTHUR K. BOLTON
Attorney General

HAROLD N. HILL, JR.
Executive Asst. Attorney General

MARION O. GORDON
Assistant Attorney General

MATHEW ROBINS
Assistant Attorney General

W. WHEELER BRYAN
Assistant Attorney General

DON L. HARTMAN
Deputy Asst. Attorney General

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

NO._____

JOHNNY C. WILSON; HOSEA L. WILLIAMS; SAM W. WILLIAMS; FRED C. BENNETT; PHIL WHITUS; LEON DAVIS; SLATER KING; SUZANNE R. and HENRY L. BASS; JODY PALMOUR; RALPH LORENZO MANNINGS, a/k/a WILLIAM H. DUKES; WOODROW STARGELL, individually and as father and next friend of WINSTON STARGELL; a minor, JESSE HILL, JR.; GENE GUERRERO, JR.; and LILLIE BELLE HOLT, individually and as mother and next friend of HALLIE MAE HOLT, a minor; for themselves jointly and severally, and for all others similarly situated,

Appellants,

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ASA D. KELLEY, JR., Director of the State Board of Corrections of Georgia; JOHN B. STANLEY, STETSON BENNETT, JR., RICHARD W. WATKINS, JR., JACK T. RUTLEDGE, as members of the State Board of Corrections of Georgia; WILLIAM H. BURSON, as Director of the State Department of Family and Children Services of Georgia, and as Chairman of the State Board for Children and Youth; MRS. H. SOL CLARK, G. OTHELL HAND, GUY K. HUTCHERSON, MRS. MAMIE K. TAYLOR, IRVING KALER, BERT STRUBY, MRS. LESTER HARBIN, JACK WILLIAMS, JR., LEWIS STOVER, JR., MRS. HENRY H. PARSONS, C. L. JONES, DAVID HOLMES, HARVEY PASCHAL, MRS. LAMAR RUSSELL, as members of the State

Board for Children and Youth; WELLBORN R. ELLIS, as Director of the State Board for Children and Youth; EDWIN L. SWAIN, as Director of the State Merit System of Personnel Administration; THOMAS H. MILNER, JR., Chairman of the State Personnel Board; L. E. BOWEN, SR., as Vice-Chairman of the State Personnel Board; DR. HUGH A. GOODWIN, as member of the State Personnel Board; T. RALPH GRIMES and LYNWOOD WILLIFORD, as Sheriffs of Fulton County, Georgia, and Mitchell County, Georgia, respectively, and all other sheriffs of Georgia, jointly and severally, who are similarly situated, GEORGIA SHERIFFS' ASSOCIATION, DANIEL E. STRINGER, its President, T. RALPH GRIMES, S. CARL GRIFFIN, DWAYNE GILBERT, W. R. BUSSELL, D. LAMAR STEWART, ALBERT HUDSON, LAMAR MARTIN, HOWARD NORRIS, KERMIT SANDERS, RUSSELL TANNER, ADGER MOORE as Members of the Board of Directors of the Georgia Sheriffs' Association; LEWIS DAVIS, as Warden of the City Jail of Albany, Georgia; FRED SINK, as Superintendent of Streets and Public Works of Albany, Georgia, and all other wardens and jailers of Georgia, jointly and severally, who are similarly situated,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

BRIEF SUPPORTING MOTION TO AFFIRM

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

STATEMENT

The Appellants instituted this suit as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. The suit had three objectives: (1) to abolish racial segregation of prisoners in all penal institutions and jails, (2) to prevent alleged discrimination in the employment of negroes at State penal institutions and in the penal facilities operated by Georgia counties and municipalities, and (3) to abolish all county public works camps. Some Appellants alleged that they were presently incarcerated in various State, county, and municipal penal facilities, while other members of the group alleged that they had in the past been jailed in such detention facilities. Still other Appellants alleged an apprehension of possible future confinement.

The Appellees are the State Board of Corrections, the Director of the State Board of Corrections, the Director and members of the State Board for Children and Youth, the members and Director of the State Merit System of Personnel Administration, one county public works camp warden, one municipal jailer, and two county sheriffs.

Employment Practices

This suit, denominated by the Appellants as a class action, sought to inquire into and to abolish alleged discrimination against negroes as prospective employees

of the penal facilities of every political subdivision of the State of Georgia, including the State itself. Not one Plaintiff alleged that he had ever sought employment in any State penal institution or in any municipal or county facility.

Municipal jails are ordinarily operated in conjunction with local police departments. Municipal custodial personnel have no connection with either the State or a county government. They are employed pursuant to whatever personnel practices obtain in the municipality for which they work. The employment practices of the various cities necessarily vary widely.

Georgia has one hundred and fifty-nine counties. Each county maintains a jail which is superintended by the county sheriff. Sheriffs are elected officials and have absolute discretion in the appointment of their deputies. Ga. Code § 24-2811. The employment practices of the sheriffs vary widely and have no common denominator. Some sheriffs have hired negroes as deputies, while others have not.

The county public works camps are established by county governments. Counties are governed by commissioners who are elected officials. With the exception of the hiring of wardens, the employees of county public works camps are selected by the county commissioners. The State Board of Corrections, which operates the State-wide penal system in Georgia, has a voice in the selection of a county public works camp warden only to the extent that the Board may disapprove an appointment made by the county commissioners. Ga. Laws 1956, pp. 161, 175 (Ga. Code Ann. § 77-314).

The State Board of Corrections is the largest single

employer of correctional personnel. All employees of the State Board of Corrections are under a State Merit System which is administered by the State Merit System of Personnel Administration. All hiring procedures are governed by the rules and regulations promulgated by the State Merit System. This procedure includes filling vacancies from an employment register which operates under the "rule of threes." Under this system, the State Board of Corrections is free to choose from three job applicants certified by the State Merit System. This system, commonly called the "rule of threes" is utilized by the federal government and by most state governments. Following this system, it is first determined whether an applicant meets the requirements for the specific job for which he is applying and can be cleared on the Merit System register. A security check is then made with the Georgia Department of Public Safety, the Federal Bureau of Investigation, and frequently by the Retail Credit Company. For the past year there has been a shortage of correctional officers on the beginning level and no register has existed for that level in at least one county in which a State penal facility is located. In this particular instance, the Department of Corrections employed any and all applicants who met the educational requirements, who were between the ages of twenty-one and fifty-six years, and who could clear the security check. Minor traffic violations and drunken driving cases which are several years old are not considered as reasons for rejecting an applicant. Repeated traffic violations, a recent drunken driving conviction, or any serious offense is usually considered to be sufficient cause to reject the applicant. Less than ten percent of the persons applying for jobs in the State Board of Corrections were re-

jected for security reasons in the past year. Positions which are vacant are listed each month in a publication of the State Merit System of Personnel Administration which has a circulation of approximately two thousand copies. This publication is posted on bulletin boards throughout the State of Georgia in courthouses, city halls, and all employment agencies.

The State Merit System of Personnel Administration furnishes prospective employees to the State Board of Corrections. The rules of the State Merit System of Personnel Administration unequivocally forbids racial discrimination in employment matters under the Merit System. The Appellants stated to this Court on page seven of the jurisdictional statement that "the Merit System's rules scrupulously caution against 'discrimination due to religious, social or political affiliations' (R. 1487), but make no mention of racial discrimination." The quoted statement, taken from page seven of Appellants' jurisdictional statement, is a glaring falsehood. The rules of the State Merit System of Personnel Administration were made available to counsel for the Appellants upon request. Those rules were made a part of the record and are before the Court. Section 3.100, paragraph 3.101 of the rules of the State Merit System of Personnel Administration provides:

> "No person shall be appointed or promoted to, or demoted or dismissed from any position under the Merit System, or in any way favored or discriminated against with respect to employment under the Merit System because of his political or religious opinions or affiliations; nor shall there be any discrimination in favor of, or against any applicant or employee because of race, color, sex, physical handicap, or national origin; except that no employee under the

Merit System shall be a member of any national, state, or local committee of a political party, or an officer of a partisan political club, or a candidate for nomination or election to any public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his rights as a citizen privately to express his opinion and to cast his vote."

The Georgia Prison System

The State Board of Corrections operates a maximum security penitentiary, several State prison branches, facilities for juvenile offenders, and a training and development center which is extensively engaged in vocational training. The Board will have in service in the near future a ten million dollar diagnostic and classification center which will serve the entire system.

While the county public works camps are part of the Georgia Penal System, the county facilities are neither established nor maintained by the State Board of Corrections. The establishment of county public works camps is provided for in Ga. Laws 1956, pp. 161, 174 (Ga. Code Ann. § 77-312) which provides:

"(a) Subject to provisions hereinafter stated, any county may purchase, rent, establish, construct and maintain a public works camp for the care and detention of all prisoners assigned to it by the State Board of Corrections, and such county may contract with other counties relative to the joint care, upkeep and working of such prisoners in said counties, and said counties may pay their pro rata share of such expenses by taxes assessed and levied as now provided by law.

"(b) All public works camps established by the counties as herein provided shall be subject to supervision and control by the State Board of Correc-

tions, and said Board shall promulgate rules and regulations governing the administration and operation thereof.

"(c) Each county establishing a county public works camp which complies with the rules and requirements established by the Board of Corrections and is approved by such Board shall receive a quota of prisoners in accordance with such methods of apportionment as may be established by said Board. The State Board of Corrections is hereby given the authority to withdraw all prisoners from any camp which does not at any time meet the requirements of the Board or comply with its directions."

A substantial portion of the prisoners committed to the custody of the Director of Corrections is assigned to the various county public works camps. Prisoners assigned to these camps by the Director of Corrections and prisoners committed directly to these camps by the courts are required to perform work upon public projects. Prisoners assigned to the public works camps are not of the hardened criminal, high security risk type assigned to the State penitentiary. As noted by the District Court in its opinion which is reprinted on page 11-a of the appendix to the Appellants' jurisdictional statement, "many (prisoners) prefer the comparative freedom, proximity to their families, and the general association with less hardened criminals in the works camps."

After a hearing upon the Appellees' motions to dismiss and after some evidence had been presented to the Court by the Appellants, the Court entered its order requiring the penal facilities in the State of Georgia to be desegregated insofar as the prisoner population is concerned. The District Court denied the relief which

sought to abolish the county public works camps and to alleviate an alleged discrimination in employment.

QUESTIONS PRESENTED

1. Whether the Appellants, none of whom have ever sought employment in any penal facility, and on whose behalf no witness testified that he had been denied employment because of race, may maintain a class action to prevent alleged discrimination in the employment of negroes in State, county, and municipal penal facilities and as deputy sheriffs?

2. Whether the Appellees who are accountable to different superiors and whose employment practices vary and have no connection with each other are proper class representatives?

3. Whether prisoners in the county public works camps can be required to labor upon public projects?

ARGUMENT

THE JUDGMENT OF THE DISTRICT COURT SHOULD BE AFFIRMED AS THE QUESTIONS PRESENTED DO NOT WARRANT FURTHER CONSIDERATION

The named Appellants lack standing to represent a class of persons allegedly discriminated against on the grounds of race for employment in penal facilities and as deputy sheriffs within the State of Georgia.

One of the most fundamental rules of federal civil procedure is that a plaintiff lacks standing to represent a class if he himself is not a member of the class he seeks to represent. *Bailey, et al. v. Patterson, et al.*, 369 U.S. 31 (1962); *Smith v. Board of Education of Morrilton School District No. 32*, 365 F.2d 770 (8th Cir. 1966);

Slack v. Stiner, 358 F.2d 65, 70 (5th Cir. 1966); and Moore, *Federal Practice,* § 23.04.

The complaint in the District Court did not allege that any single Plaintiff had been denied employment on the basis of race after making application and otherwise meeting the necessary qualifications for a specific job. Moreover, upon the hearing, the Appellants failed to offer even one witness to show that any negro job applicant had been denied employment in the penal system or as a deputy sheriff because of race.

It was held in *Anderson v. Kelley,* 32 F.R.D. 355 (M.D. Ga., 1963) that:

> "If the representative plaintiff sues to enforce a right which he alleges has been withheld from the class then he is required to show that that right has been withheld from him also. Otherwise, he is merely a volunteer, he is not a member of the class and has no standing in court to represent the class. It is best stated by the United States Supreme Court:
>
> > 'They [plaintiffs in a class action] cannot represent the class of whom they are not a part. *Bailey v. Patterson,* 369 U.S. 31, 7 L.Ed.2d 512 (1962). [Fn. 3.]'
>
> "The decision in the *Bailey* case, *supra,* follows an earlier decision of the Supreme Court which held:
>
> > 'It is an elementary principle that in order to justify the granting of this extraordinary relief, the complainant's need of it, and the absence of an adequate remedy at law, must clearly appear. The complainant cannot succeed because someone else may be hurt. Nor does it make any difference that other persons, who may be injured are persons of the same race or occupation. It is the fact, clearly established, of injur-

> ies to the complainant — not to others — which justifies judicial intervention. *McCabe v. Atchison, T. & S.F. R. Co.*, 235 U.S. 151, 59 L.Ed. 169.'
>
> "The rule stated in the *Bailey* case, *supra*, and the *McCabe* case, *supra*, is enunciated in a decision of the Fifth Circuit Court of Appeals where it is said:
>
> 'Plaintiff has wholly failed to plead or prove any deprivation of his civil rights and it is elementary that he has no standing to sue for the deprivation of the civil rights of others. *Brown v. Board of Trustees of LaGrange Independent School District*, 187 F.2d 20.' "

The principles enunciated in the decisions of this Court have been followed time and time again. In an action by a negro physician for an injunction against racially discriminatory policies and practices of a publicly supported hospital, it was necessary for him to show that he had otherwise met the "paper qualifications and proven his competency in his chosen specialty field" and been denied membership before he had standing to bring a class action on behalf of other negro physicians similarly situated. *Cypress v. Newport News General Hospital Association*, 375 F.2d 648, 654 (2nd Cir. 1967). In *Hackett v. Kincade*, 36 F.R.D. 442 (1964) it was held that the plaintiffs must have sought and been denied access to certain public facilities before having standing to maintain a class action. The plaintiffs in *House v. City of Grenada*, 262 F.Supp. 19 (1966) lacked standing to maintain a class action because they had not been refused admission to a public pool. *Jeffers v. Whittey*, 197 F.Supp. 84 (D.C. N.C. 1961) held that the named plaintiffs were not able to attain class relief in a federal court because they had failed to seek admission to public schools.

Similarly, to have the necessary standing to attack alleged discriminatory policies of the State Board of Corrections or other State penal institutions or agencies, it would be necessary for at least one Appellant to allege and prove: (a) that he had applied for a job; (2) that he was otherwise qualified by taking the necessary examination; (3) that he was one of the three highest eligibles taking the examination; and (4) that he was refused a job because of his race.

In the absence of such a showing, "the plaintiffs lack standing to seek injunctive relief for others who may have been injured, because the plaintiffs cannot represent a class of whom they are not a part . . . The desire to obtain a sweeping injunction cannot be accepted as a substitute for compliance with the general rule that the complaint must present facts sufficient to show that their individual needs require injunctive relief." *Anderson v. Kelley, supra,* 32 F.R.D. at 358, citing *Bailey v. Patterson,* 369 U.S. 31 (1962); *McCabe v. Atchison T. & S.F. Ry. Co.,* 235 U.S. 151 (1914); *Brown v. Board of Trustees,* 187 F.2d 20 (5th Cir. 1951); and *Kansas City et al. v. Williams, et al.,* 205 F.2d 47 (8th Cir. 1953), *cert. denied,* 346 U.S. 826.

There was no proper class on either side of the issue presented to the District Court. The Appellees are not, and cannot be representatives of any alleged class. Some of the Appellees are elected, others are appointed office holders, and all of them are responsible to different superiors. Their employment practices vary widely. There are no common questions of law or fact which can be properly represented and asserted by any Appellee on behalf of any class. "There are two general requirements for the maintenance of a class suit. The persons consti-

tuting the class must be so numerous that it is impracticable to bring them all before the court, and the named representatives must be such as will fairly insure the adequate representation of all." Wright, *Federal Courts,* § 72. "Without a class on one hand or a proper representative on the other, a class action pursuant to Rule 23 (a) must fail." *Hamer v. Campbell,* 358 F.2d 215, 219 (5th Cir. 1966).

The authorities cited for the proposition that no proper class existed to contest employment practices are equally applicable to that portion of the suit which seeks the destruction of a significant portion of the Georgia Penal System. No proper class exists to litigate issues relating to the county public works camps.

The maintenance of State public works camps for convicted prisoners is not a violation of the thirteenth amendment prohibition against involuntary servitude. It is not cruel and unusual punishment; nor does the operation of such facilities infringe upon federal privileges and immunities under the fourteenth amendment.

This proposition was judicially recognized long ago in *United States v. Reynolds,* 235 U.S. 133 (1914), which held specifically that:

> "There can be no doubt that the State has authority to impose involuntary servitude as a punishment for crime. This fact is recognized by the thirteenth amendment and such punishment is expressly excepted from its terms. Of course, the State may impose fines and penalties which must be worked out for the benefit of the State and in such manner as the State may legitimately prescribe." 235 U.S. at p. 149.

Following this same principle, a Ninth Circuit court held that:

> "There is no federally protected right of a state prisoner not to work while imprisoned after conviction even though that conviction is being appealed. Prison rules may require appellant to work but this is not the sort of involuntary servitude which violates thirteenth amendment rights . . . The thirteenth amendment has no application where a person is held to answer for a violation of a penal statute. It follows therefore, that whether appellant is being held in the state penitentiary or the county jail, he may be required to work in accordance with institutional rules." *Draper v. Rhay,* 315 F.2d 193, 197 (9th Cir. 1963), *cert. denied,* 375 U.S. 915, *rehearing denied,* 375 U.S. 982.

Personal chores may be performed to reduce the financial burden on the State:

> " . . . Even though the purpose of the thirteenth amendment was to proscribe conditions of 'enforced compulsory service of one to another' [citation], the states are not thereby foreclosed from requiring that a lawfully committed inmate perform without compensation certain chores designed to reduce the financial burden placed on a state . . . if the chores are reasonably related to a therapeutic program, or if not directly so related, chores of a normal housekeeping type and kind." *Jobson v. Henne,* 355 F.2d 219, 131 (2nd Cir. 1966).

The thirteenth amendment is totally unrelated to the imprisonment of persons duly convicted of a crime. *United States ex. rel. Smith v. Dowd,* 271 F.2d 292 (7th Cir. 1959), *cert. denied,* 362 U.S. 978 (1960).

Requiring a prisoner to work is not cruel and unusual punishment in the absence of a specific showing of "inhuman, barbarous or torturous punishment;" *Black v. United States,* 269 F.2d 38 (9th Cir. 1959), *cert. denied,* 361 U.S. 938 (1960); *Hennons v. United States,* 163

F.2d 228 (6th Cir. 1947), *cert. denied,* 332 U.S. 801 (1947), and it is "entirely consistent with the institution's duty to maintain effective discipline." *Fallis v. United States,* 263 F.Supp. 780 (D.C. Penn. 1967), citing *United States v. Pridgeon,* 153 U.S. 48.

The fourteenth amendment "privileges and immunities" granted to citizens of the United States against state abridgment were listed in *Twining v. New Jersey,* 211 U.S. 78, 97 (1908):

"(1) Right to pass freely from state to state;

(2) Right to petition to Congress for redress of grievances;

(3) Right to vote for national officers;

(4) Right to enter public lands;

(5) Right to be protected against violence while in custody of U. S. Marshal;

(6) Right to inform U. S. authorities of violation of its laws."

These rights are rights of a person because he is a citizen of the United States and are not to be confused with other federally guaranteed rights to individuals because they are citizens of the several states. For example, the "cruel and unusual punishment" prohibition of the eighth amendment, if it applies to the states at all, is applicable only under the fourteenth amendment due process clause, *Robinson v. California,* 370 U.S. 660 (1962), and is not included with the few closely circumscribed federal privileges and immunities which may not be abridged by the states. *Twining v. New Jersey, supra.* The maintenance or operation of State or local public works camps per se pertain to a relationship between the State and its citizens and cannot be considered

a violation of a privilege or immunity of a citizen of the United States.

The Appellants' contention that the operation of county public works camps constitutes negro slavery was demolished by the District Court order providing for total and complete integration of the prison population in Georgia. Work upon public projects is being done by prisoners of both races on an integrated basis, as the integration process has already begun.

The composition of the Georgia Penal System, the location of institutions, the assignment of prisoners to the various institutions, and the maintenance of particular programs at individual institutions, are all matters which address themselves to the discretion of appropriate prison administrators.

The long standing policy of the courts not to interfere with prison administration and prison discipline at any level was recognized by the District Court. *Price v. Johnson,* 334 U.S. 266 (1947). That policy is wise, sound, and is designed to prevent disorder and chaos. It should be adhered to.

CONCLUSION

The judgment of the United States District Court for the Northern District of Georgia, Atlanta Division, sought to be reviewed, should be affirmed on the ground that the questions upon which the decision below depended were correctly answered and do not warrant or justify further argument.

Respectfully submitted,

132 Judicial Bldg.
40 Capitol Square
Atlanta, Ga. 30334

ARTHUR K. BOLTON
Attorney General

HAROLD N. HILL, JR.
Executive Asst. Attorney General

MARION O. GORDON
Assistant Attorney General

MATHEW ROBINS
Assistant Attorney General

W. WHEELER BRYAN
Assistant Attorney General

DON L. HARTMAN
Deputy Asst. Attorney General

Attorneys for Appellees

CERTIFICATE OF SERVICE

I, Mathew Robins, one of the Attorneys for Appellees herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 22 day of October, 1968, I served a copy of the foregoing Motion to Affirm on the Appellants by mailing copies of the same in duly addressed envelopes with postage prepaid to their counsel of record, CHARLES MORGAN, JR., REBER F. BOULT, JR., 5 Forsyth Street, N.W., Atlanta, Georgia, 30303; HOWARD MOORE, JR., PETER E. RINDSKOPF, 859½ Hunter Street, N.W., Atlanta, Georgia; P. WALTER JONES, 505 Park Avenue, Albany, Georgia; ARTHUR KINOY, 511 Fifth Avenue, New York, New York; MELVIN L. WULF, MARTIN GARBUS, 156 Fifth Avenue, New York, New York; and C. B. KING, 502 A South Monroe Street, Albany, Georgia.

MATHEW ROBINS
Of Counsel for Appellees